



Express Mail No. EV784678932US
Docket No.: 248588007US
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Christopher Boscolo et al.

Application No.: 09/800,754

Confirmation No.: 3879

Filed: March 6, 2001

Art Unit: 2134

For: REMOTE MANAGEMENT OF
PROPERTIES, SUCH AS PROPERTIES
FOR ESTABLISHING A VIRTUAL PRIVATE
NETWORK

Examiner: D. Y. Jung

ARGUMENTS FOR PRE-APPEAL BRIEF REVIEW

MS AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Applicants submit along with the Notice of Appeal the following arguments for consideration by the conference panel. Applicants respectfully submit that the arguments point out clear errors in the rejection of the claims. Applicants respectfully request proper reconsideration of this application in view of these arguments.

ARGUMENTS

Applicants' amendment of April 21, 2005 contains a summary of the claims on page 11.

The entirety of the Examiner's response to the arguments submitted in applicants' April 21, 2005 amendment is as follows:

Applicant's arguments filed have been fully considered but they are not persuasive. Applicant asserts that Poisson cannot teach determining whether the new properties differ from the properties already in use. How can this be? How else would any complete system function? Poisson is clearly directed to a portion of a complete system. Poisson does not forbid a functioning system. Thus, Applicant's arguments are not yet deemed persuasive.

(Office Action, July 26, 2005, p. 2.) Applicants are perplexed by the Examiner's response to their previous arguments.

Regarding claims 28-31, applicants argued that "Poisson does not disclose, suggest or teach determining whether the new managed properties differ from the properties in use by the managed computer system," and that the Examiner failed to address this feature in rejecting the claims. (Amendment, April 21, 2005, p. 13.) The Examiner appears to misinterpret applicants' argument. Applicants are not arguing that Poisson cannot teach determining whether the new managed properties differ from the properties in use by the managed computer system, but, rather, that Poisson does not teach this. Moreover, applicants are unclear as to the significance of the questions posed by the Examiner. How a complete system would function, whether Poisson is directed to a portion of a complete system, or whether Poisson does or does not forbid a functioning system, has no relevance in determining whether Poisson discloses, suggests or teaches determining whether the new managed properties differ from the properties in use by the managed computer system. Yet, the Examiner concludes that "Applicant's arguments are not yet deemed persuasive," without providing a proper reference in Poisson or the relevant art.

Regarding claims 1-10, applicants argued that "Poisson does not disclose, suggest or teach merging the new properties into a copy of the existing properties received from a subject computer system," and that the Examiner failed to address this feature in rejecting independent claim 1. (Amendment, April 21, 2005, p. 12.) The Examiner states that "Applicant's arguments filed have been fully considered but they are not persuasive." Applicants are unclear as to how the Examiner considered these arguments. The entire content of the Examiner's response to applicants' arguments is as recited above. There is no indication in the July 26, 2005 Office Action that the Examiner considered this argument.

Regarding claims 11-13 and 15-25, applicants argued that "Poisson does not disclose, suggest or teach transmitting the generated properties to the security devices in response to inquiries from the security devices at times subsequent to generating the properties." (Amendment, April 21, 2005, p. 12.) Regarding claims 34-43, applicants argued that "Poisson does not disclose, suggest or teach using both properties maintained by a distinguished computing system and properties received from a separate computing system in the operation of the distinguished computing system." (Amendment, April 21, 2005, pp. 13-14.) Applicants are unclear as to how the Examiner considered these arguments as the July 26, 2005 Office Action contains no indication that the Examiner considered these arguments other than the Examiner's cursory statement that applicants' arguments have been fully considered.

The entire content of the Examiner's claim rejections is as follows:

Claims 1-13, 15-25, 28-31, 34-43 are rejected because of the features of the prior art as noted in the previous Office Action. Of course, the amended claims that were previously rejected under 35 USC 102 (before amendment) are now rejected under 35 USC 103.

(Office Action, July 26, 2005, p. 2.) The Examiner has failed to show how the Poisson, West or Schneider references teach the amended features.

Applicants amended independent claim 11 and independent claim 25 to each recite "wherein the distributing includes transmitting the generated properties to the security devices in response to inquiries from the security devices at times subsequent to the generating." (Amendment, April 21, 2005, p. 4 and p. 6, respectively.) Applicants amended independent claim 28 to recite "determining whether the new managed properties received differ from those in use by the identified managed computer system" and "wherein the new managed properties are delivered only if it is not determined that the new managed properties received differ from those in use by the identified managed computer system." (Amendment, April 21, 2005, p. 7.) The Examiner, however, incorrectly states that "the amended claims that were previously rejected under 35 USC 102 (before amendment) are now rejected under 35 USC 103." (Office Action, July 26, 2005, p. 2.)

Applicants are perplexed by the Examiner's position and basis for rejection. Obviously, the amended features were not contained in claims 11, 25, and 28 prior to the amendment. Therefore, the amended features could not have been, and were not addressed by the Examiner in the Examiner's 35 U.S.C. § 102(b) rejections of claims 11, 25 and 28. Neither were any of these amended features addressed by the Examiner in the Examiner's 35 U.S.C. § 103(a) rejections of any of the other claims. Yet, the Examiner improperly rejects amended claims 11, 25 and 28 under 35 U.S.C. § 103(a) without providing any indication of where and how these amended features are taught by the Poisson, West or Schneider references.

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In view of these errors, applicants respectfully request the withdrawal of the pending rejection and reconsideration of this application.

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Respectfully submitted,

By 

Do Te Kim

Registration No.: 46,231

PERKINS COIE LLP

P.O. Box 1247

Seattle, Washington 98111-1247

(206) 359-8000

(206) 359-7198 (Fax)

Attorneys for Applicants